

**AN ORDINANCE
BY CITY UTILITIES COMMITTEES**

AN ORDINANCE AUTHORIZING THE ACCEPTANCE OF CERTAIN NEW SANITARY SEWER UTILITY EASEMENTS IN EXCHANGE FOR THE ABANDONMENT OF CERTAIN SANITARY SEWER UTILITY EASEMENTS THAT NO LONGER SERVE A PUBLIC PURPOSE (“EASEMENT EXCHANGE”); AUTHORIZING THE ABANDONMENT OF CERTAIN SANITARY SEWER AND/OR STORM WATER UTILITY EASEMENTS OR PORTIONS THEREOF WHEN THOSE EASEMENTS NO LONGER SERVE A PUBLIC PURPOSE (“EASEMENT ABANDONMENT”); AUTHORIZING THE MAYOR OR HER DESIGNEE TO EXECUTE ALL APPROPRIATE LEGAL DOCUMENTS AND INSTRUMENTS FOR AN EASEMENT ABANDONMENT OR EASEMENT EXCHANGE, SAID EASEMENT EXCHANGE OR EASEMENT ABANDONMENT BEING LIMITED TO THOSE PROJECTS REQUIRED BY THE CONSENT DECREES; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta (“City”) is responsible for maintaining and servicing the City’s sewer system and is under stringent time restraints for performing the sewer rehabilitation and capacity relief work of the City’s sewer system per the Consent Decree and First Amended Consent Decree (“Consent Decrees”); and

WHEREAS, the Department of Watershed Management has identified the need at times to accept permanent easements, temporary construction easements, rights of entry, rights-of-way and other property interests (collectively, “Property Interests”) in exchange partially or wholly for the City abandoning its interest in existing easements as part of projects required by the Consent Decrees, such as with certain sewer rehabilitation or capacity relief projects involving sewer realignments (“Projects”); and

WHEREAS, acceptance of all Property Interests associated with an easement exchange must be commenced and completed in a timely and expedited manner and is essential to meet the scheduling requirements of the Consent Decrees and to ensure validity of title prior to any changes in ownership; and

WHEREAS, private property owners and the City desire to execute and accept Easement Exchanges and Easement Abandonments, being the creation of new permanent easements and/or temporary construction easements in favor of the City in exchange for the City abandoning its interest in certain existing easements, or a portion of said existing easements affecting private property, or the abandonment of an easement or a portion thereof that no longer serves a public purpose; and

WHEREAS, it is the normal and ordinary process of the City of Atlanta to abandon and otherwise release all claims to any easement which has no identifiable potential for future use, and to dissolve and remove the encumbrance to the affected property by quitclaiming all rights and interests associated with said easement to the property owner; and

WHEREAS, Commissioner of the Department of Watershed Management recommends the abandonment of easements that will no longer serve a public purpose and the exchange of the City's existing easements for new easements on the certain properties impacted by the Consent Decree projects, as further described above.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS:

Section 1. The Mayor or her designee is authorized to abandon sanitary sewer easements and facilities that will no longer serve a public purpose and to execute appropriate legal instruments necessary to release the City's interest in such cased to effectuate Easement Abandonments for such facilities and areas as identified and approved by the Commissioner of the Department of Watershed Management, without further authorization from City Council but only for those properties impacted and related to Consent Decree projects. Said Easement Abandonment shall be permissible for the purpose of releasing and abandoning all easement interests in areas and facilities that will no longer serve a public purpose in exchange, partially or wholly, for new easements, when the property owner agrees to an equivalent exchange of easement areas; or when an Easement Abandonment is desired by the City, but no new easement is required. Said Easement Abandonment shall be effective upon the time that any existing sanitary sewer facilities as part of the public system are taken out of service and no longer serve any public purpose and any new sanitary sewer facilities are operational or as otherwise defined in the appropriate legal instrument executed by the City.

Section 2: The Mayor or her designee is authorized to accept new easements and to execute easement documents, temporary construction easements and any such other documents and legal instruments necessary to accomplish Easement Exchanges for such areas identified and approved by the Commissioner of the Department of Watershed Management without further authorization from City Council but only for those properties impacted and related to Consent Decree projects.

Section 3. That any and all other easements interests or other interest in land held in the interest of the City of Atlanta, other than those specifically included and identified in the Easement Exchange or Easement Abandonment, shall remain in effect and unchanged.

Section 4: That the City Attorney, or a designee, is authorized to monitor and supervise the easement exchange and/or abandonment transactions with affected property owners in connection with the Consent Decree projects, with the assistance of the City's real estate acquisition consultant.

Section 5. The City Attorney, or designee, is authorized to prepare all necessary documents and instruments in an acceptable form and to record all documents in the records of County in which the property affected lies.

Section 6: That all ordinances or parts of ordinances in conflict with this are waived to the extent of the conflict.

Part II: Legislative White Paper: (This portion of the Legislative Request Form will be shared with City Council members and staff)

A. To be completed by Legislative Counsel:

Committee of Purview: City Utilities

Caption: AN ORDINANCE AUTHORIZING THE ACCEPTANCE OF CERTAIN NEW SANITARY SEWER UTILITY EASEMENTS IN EXCHANGE FOR THE ABANDONMENT OF CERTAIN SANITARY SEWER UTILITY EASEMENTS THAT NO LONGER SERVE A PUBLIC PURPOSE ("EASEMENT EXCHANGE"); AUTHORIZING THE ABANDONMENT OF CERTAIN SANITARY SEWER AND/OR STORM WATER UTILITY EASEMENTS OR PORTIONS THEREOF WHEN THOSE EASEMENTS NO LONGER SERVE A PUBLIC PURPOSE ("EASEMENT ABANDONMENT"); AUTHORIZING THE MAYOR OR HER DESIGNEE TO EXECUTE ALL APPROPRIATE LEGAL DOCUMENTS AND INSTRUMENTS FOR AN EASEMENT ABANDONMENT OR EASEMENT EXCHANGE, SAID EASEMENT EXCHANGE OR EASEMENT ABANDONMENT BEING LIMITED TO THOSE PROJECTS REQUIRED BY THE CONSENT DECREES; AND FOR OTHER PURPOSES.

Council Meeting Date: September 21, 2009

Requesting Dept.: Watershed Management

B. To be completed by the department:

1. Please provide a summary of the purpose of this legislation (Justification Statement).

Example: The purpose of this legislation is to anticipate funds from a local assistance grant to purchase child safety seats.

The purpose is to abandon sanitary sewer easements and facilities that will no longer serve a public purpose and execute appropriate legal instruments necessary to release the City's interest in Easement Abandonments for such facilities and areas as identified and approved by the Commissioner of the Department of Watershed Management, without further authorization from City Council but only for those properties impacted and related to Consent Decree projects. The legislation also authorizes the department of Watershed to accept new easements and to execute easement documents, temporary construction easements and any such other documents and legal instruments necessary to accomplish Easement Exchanges for such areas identified and approved by the Commissioner of the Department of Watershed Management without further authorization from City Council but only for those properties impacted and related to Consent Decree projects

2. Please provide background information regarding this legislation.

Example: The task force of homelessness conducted a study regarding homelessness, its impact and consequences on the City. This resolution reflects the Mayor's desire to open a twenty-four hour center that will respond to the needs of the homelessness in Atlanta.

The Department of Watershed Management has identified the need at times to accept permanent easements, temporary construction easements, rights of entry, rights-of-way and other property interests (collectively, "Property Interests") in exchange partially or wholly for the City abandoning its interest in existing easements as part of projects required by the Consent Decrees, such as with certain sewer

rehabilitation or capacity relief projects involving sewer realignments ("Projects"); and accept all Property Interests associated with an easement exchange must be commenced and completed in a timely and expedited manner and is essential to meet the scheduling requirements of the Consent Decrees and to ensure validity of title prior to any changes in ownership.

3. If Applicable/Known:

- (a) **Contract Type (e.g. Professional Services, Construction Agreement, etc):**
- (b) **Source Selection:**
- (c) **Bids/Proposals Due:**
- (d) **Invitations Issued:**
- (e) **Number of Bids:**
- (f) **Proposals Received:**
- (g) **Bidders/Proponents:**
- (h) **Term of Contract:**

4. Fund Account Center (Ex. Name and number):

Fund: _____ **Account:** _____ **Center:** _____

5. Source of Funds: *Example: Local Assistance Grant*

6. Fiscal Impact: n/a

Example: This legislation will result in a reduction in the amount of _____ to Fund Account Center Number _____.

7. Method of Cost Recovery:

Examples:

- a. Revenues generated from the permits required under this legislation will be used to fund the personnel needed to carry out the permitting process.***
- b. Money obtained from a local assistance grant will be used to cover the costs of this Summer Food Program.***

This Legislative Request Form Was Prepared By:

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

ATTN: GREG PRIDGEON

Dept.'s Legislative Liaison: _____ Maisha L. Wood _____

Contact Number: _____ (404) 330-6887 _____

Originating Department: _____ Department of Watershed Management _____

Committee(s) of Purview: _____ City Utilities _____

Chief of Staff Deadline: _____ September 1, 2009 _____

Anticipated Committee Meeting Date(s): _____ September 15, 2009 _____

Anticipated Full Council Date: _____ September 21, 2009 (first read) _____

Legislative Counsel's Signature: _____

Commissioner Signature: _____

Chief Procurement Officer Signature: _____ n/a _____

CAPTION

AN ORDINANCE AUTHORIZING THE ACCEPTANCE OF CERTAIN NEW SANITARY SEWER UTILITY EASEMENTS IN EXCHANGE FOR THE ABANDONMENT OF CERTAIN SANITARY SEWER UTILITY EASEMENTS THAT NO LONGER SERVE A PUBLIC PURPOSE ("EASEMENT EXCHANGE"); AUTHORIZING THE ABANDONMENT OF CERTAIN SANITARY SEWER AND/OR STORM WATER UTILITY EASEMENTS OR PORTIONS THEREOF WHEN THOSE EASEMENTS NO LONGER SERVE A PUBLIC PURPOSE ("EASEMENT ABANDONMENT"); AUTHORIZING THE MAYOR OR HER DESIGNEE TO EXECUTE ALL APPROPRIATE LEGAL DOCUMENTS AND INSTRUMENTS FOR AN EASEMENT ABANDONMENT OR EASEMENT EXCHANGE, SAID EASEMENT EXCHANGE OR EASEMENT ABANDONMENT BEING LIMITED TO THOSE PROJECTS REQUIRED BY THE CONSENT DECREES; AND FOR OTHER PURPOSES.

FINANCIAL IMPACT (if any): n/a

Mayor's Staff Only

Received by CPO: _____ Received by LC from CPO: _____
(date) 9/1/09 (date)

Received by Mayor's Office: _____ Reviewed by: _____
(date) (date)

Submitted to Council: _____ (date)